



United States
Department of
Agriculture

Rural Development
Rural Business -
Cooperative Programs
Rural Housing Programs
Rural Utilities Programs

VA AN No. 427 (2006-P)
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October 29, 2003

SUBJECT: Civil Rights Impact Analysis and Environmental Justice

TO: Program Directors
Rural Development Managers
Community Development Managers
Environmental Coordinator

PURPOSE/INTENDED OUTCOME:

The purpose of this Virginia AN is to clarify the requirements of RD Instruction 2006-P "Civil Rights Impact Analysis", issued March 1, 1995, and its relationship to Executive Order (E. O.) 12898 "Environmental Justice", issued February 11, 1994.

This administrative notice is to implement an analysis pertaining to civil right impact(s) in regards to policies, actions, or decisions that will affect the USDA work force or federally conducted and assisted programs and activities. For guidance concerning those actions refer to Department Regulation 4300-4 and RD Instruction 2006-P.

COMPARISON WITH PREVIOUS AN:

This AN replaces VA AN No. 387 (2006-P) which expired March 28, 2003.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 2006-P requires that a Civil Rights Impact Analysis be conducted prior to approving and implementing proposed procedural actions. Proposed actions are defined in Departmental Regulations 4300-4, 1010-1 and RD Instruction 2006-P which includes, a wide range of agency activities, including, but not limited to, the approval of loans and grants to office closures. Therefore, prior any proposed action, a Civil Rights Impact Analysis must be conducted and it must be documented on Form RD 2006-38.

As a separate initiative, Executive Order 12898 requires that each federal agency incorporate environmental justice as a part of its mission. The agency must identify and address any disproportionately high and/or adverse human health or environmental effects as a result of programs, policies, and activities on minority and low income populations. This AN is consistent with the current departmental regulation issued December 15, 1997 concerning the implementation of the above mentioned Executive Order.

Expiration Date: October 29, 2004

File: Preceding RD
Instruction 2006-P

ADDITIONAL INFORMATION

As indicated above, when procedural actions are proposed, a Civil Rights Impact Analysis must be completed by the State Director or designee appointed by the State Director prior to issuance. Additionally, an environmental review must be completed prior to loan approval, obligation of funds or other commitment of agency resources, including letter of conditions or issuance of a conditional commitment of guarantee, which ever occurs first. Examples of adverse environmental impacts that must be addressed by a Civil Rights Impact Analysis in regards to Environmental Justice are:

- Locating sewage or water treatment facilities in minority areas
- Constructing apartment complexes for low-income tenants within a 100 or 500 year floodplain, next to railroad tracks, or next to farms that routinely crop dust
- Locating an electric power generation or transmission facility near a minority or low income population
- Locating an industrial facility in a part of town where low income individuals or minorities reside

Environmental review documents, including Environmental Assessments and Environment Impact Statements, prepared pursuant to 7 CFR 1940-G and 7 CFR 1794 much include a cross-reference to the Form RD 2006-38.

Agency officials are not, at this time, expected to conduct Civil Rights Impact Analysis for individual Single Family Housing loans and/or grants (direct or guaranteed). In addition, an analysis is not required for a servicing action (transfer, assumption, subordination, etc.) unless civil rights concerns in regard to environmental justice have been identified or unless an environmental justice complaint has been made.

In addition to identifying and addressing disproportionately high and/or adverse human health effects on minority and low-income populations, Executive Order 12898 ensures that minority communities and low-income communities have adequate access to public information. All recipients must display the "And Justice for All" poster, put the non-discrimination statement in printed materials and advertisements, broadcasts, and other visual and audio media. Additionally, special outreach efforts may be needed prior to approving loans and grants to reach minority or low-income communities that will be affected by agency actions. Examples of special outreach efforts include, but are not limited to, translating and using alternative language newspapers when public notices are published, consulting with minority leaders within the community, using interpreters at public meetings, and making sure that public meetings are held in buildings that are accessible to the disabled.

Whenever a civil rights impact or environmental justice concern is raised by the public or the Department, the concerns must be included and addressed by the analysis. If needed, a consultation can occur with other agencies or experts in a particular field to address the concern. Documentation of any consultation and/or any mitigating measures that are recommended or taken must be made part of the official record.

ACTIONS REQUIRING CRIAs:

- Charters for advisory committees, councils, or board managed by the agencies on the behalf of the Secretary
- Proposed state regulations, manuals, and notices
- Proposed reorganizations requiring Departmental approval prescribed in DR 1010-1, Section 6a
- Reductions-in force and transfer of functions proposals
- At the discretion of the Director, Civil Rights, other policy, program, or activity documents that have potentially adverse civil rights impacts.
- Budget proposals
- Grants and contracts

Following are informational guidelines and considerations that should be followed when completing an analysis:

- Identify the factors that may impact minorities, women, under-served populations, and persons with disabilities
- Project or estimate to what extent these groups would be impacted
- Describe the criteria/rationale used to make projections/estimates.

The following are the minimum requirements for the program areas to include in the analysis:

MFH

- Census for the service area
- Map of the proposed location recognizing any adverse barriers (i.e. railroad tracks, landfill, airport, etc.)
- Number of applicants as reflected by the waiting list, and number of tenants residing in the complex.

RUS

- Census for the service area
- Map of the proposed location depicting any areas where minorities or low income populations may be located.
- Number of users of the water and waste disposal system

CF/B&I

- Census for the service area
- Map of the proposed location depicting any areas where minorities or low income populations may be located.
- The number of facilities of a similar nature that is within a commuting distance of the proposed facility.
- Response log of individuals assisted

If an issue is determined to have a negative impact to a minority or low-income community, the analysis should include:

- Determination of impact(s)
- Comparisons of feasible alternatives that could eliminate or mitigate unfavorable impacts
- In consultation with the State Civil Rights Manager, develop plan(s) of action to ensure that approved strategies and actions established to eliminate/mitigate unfavorable impacts are implemented.
- Monitor and evaluate implementation of plan(s) of action and report progress to the State Civil Rights Manager. Timetables for reporting will be negotiated on a case-by-case basis.
- Certification that the State Civil Rights Manager was actively involved in the planning and implementation of reorganization proposals from a civil rights perspective with consultation from National Office Civil Rights Staff.

The State Civil Rights Manager will:

- Review all proposed State ANs, PNs, (before being signed by the State Director or designee) civil rights impact analysis for civil rights compliance
- Serve as member of any committees, teams, or other groups established to develop recommendations, proposals, or to study possible impacts.
- Provide leadership and technical expertise in developing the impact analysis and statement (if necessary).
- Receive a copy of all impact analysis completed for review and tracking purposes.

The State Director or official designated to certify on his or her behalf, is the certifying official for analyses that are conducted at the State Office level. For loan and grant approvals, this will normally be the loan processing or servicing official. The State Civil Rights Coordinator will assist the loan official on an as-needed basis and will provide advice and guidance to the State Director and field staff. For Electric and Telecommunications Programs, the Assistant Administrator or official designated to certify on his or her behalf, is the certification official.

Any further questions should be directed to Daniel Bedford, SCRM at (804) 287-1563.

/s/

JOSEPH W. NEWBILL

State Director

USDA Rural Development - Virginia